IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 146 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

KANTILAL P PATEL

Appearance:

1. INCOME TAX REFERENCE No. 146 of 1993

Mr AKIL KURESHI with MR MANISH R BHATT for Petitioner

NOTICE SERVED for Respondent

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 18/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for the opinion of

this Court in respect of assessment year 1988-89 :-

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the assessee was entitled to deduction for expenses at the rate of 40% on the incentive bonus commission received by him from his employer, viz. LIC of India ?"

2. We have heard Mr Akil Kureshi, learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. The learned counsel for the revenue fairly points out that the controversy raised herein is concluded by the decision of this Court in CIT vs. Kiranbhai H Shelat, (1999) 235 ITR 635.

4. Having gone through the order of the Tribunal and having perused the aforesaid decision, we find that the Tribunal was right in holding that the assessee was entitled to deduction for expenses at the rate of 40% on the incentive bonus commission received by him from his employer viz. LIC of India.

We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

5. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-